

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>FRANK JAMES BYRNE, JR.,</b>	:	<b>CIVIL ACTION</b>
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	<b>NO. 23-5071</b>
	:	
<b>THE BERKS COUNTY JAIL, <i>et al.</i></b>	:	
<b>Defendants.</b>	:	

**ORDER**

**AND NOW**, this 18<sup>th</sup> day of January 2024, upon consideration of Frank James Byrne, Jr.'s motion to proceed in forma pauperis (DI 1), Prisoner Trust Fund Account Statement (DI 3), pro se Complaint (DI 2), and for reasons in the accompanying memorandum, it is **ORDERED**:

1. Mr. Byrne's motion for leave to proceed in forma pauperis (DI 1) is **GRANTED** pursuant to 28 U.S.C. § 1915.

2. Frank James Byrne, Jr., # 2008-6468, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of Berks County Jail or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Mr. Byrne's inmate account; or (b) the average monthly balance in Mr. Byrne's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Mr. Byrne's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's

income credited to Mr. Byrne's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Warden of Berks County Jail.

4. The Complaint is **DEEMED** filed.

5. Mr. Byrne's Complaint is **DISMISSED WITH PREJUDICE** for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons stated in the Court's Memorandum.

6. The Clerk of Court shall **CLOSE** this case.

  
MURPHY, J.